

IC 21-2-15

Chapter 15. Capital Projects Fund

IC 21-2-15-1

"Emergency" defined

Sec. 1. As used in this chapter, "emergency" means:

- (1) when used with respect to repair or replacement, a fire, flood, windstorm, mechanical failure of any part of a structure, or other unforeseeable circumstance; and
- (2) when used with respect to site acquisition, the unforeseeable availability of real property for purchase.

As added by P.L.85-1987, SEC.3.

IC 21-2-15-2

"Governing body" defined

Sec. 2. As used in this chapter, "governing body" means township trustee, board of school trustees, board of school commissioners, or other officer in charge of a school.

As added by P.L.85-1987, SEC.3.

IC 21-2-15-3

"School corporation" defined

Sec. 3. As used in this chapter, "school corporation" means school township, school town, school city, or public school corporation. The term does not include a charter school.

As added by P.L.85-1987, SEC.3. Amended by P.L.276-2003, SEC.22.

IC 21-2-15-4

Capital project fund; uses

Sec. 4. (a) As used in this subsection, "calendar year distribution" means the sum of:

- (1) all distributions to a school corporation under:

- (A) IC 6-1.1-19-1.5;
- (B) IC 21-1-30;
- (C) IC 21-3-1.7;
- (D) IC 21-3-2.1; and
- (E) IC 21-3-12;

for the calendar year; plus

- (2) the school corporation's excise tax revenue (as defined in IC 21-3-1.7-2) for the immediately preceding calendar year.

(b) A school corporation may establish a capital projects fund.

(c) With respect to any facility used or to be used by the school corporation (other than a facility used or to be used primarily for interscholastic or extracurricular activities, except as provided in subsection (j)), the fund may be used to pay for the following:

- (1) Planned construction, repair, replacement, or remodeling.
- (2) Site acquisition.
- (3) Site development.
- (4) Repair, replacement, or site acquisition that is necessitated

by an emergency.

(d) The fund may be used to pay for the purchase, lease, repair, or maintenance of equipment to be used by the school corporation (other than vehicles to be used for any purpose and equipment to be used primarily for interscholastic or extracurricular activities, except as provided in subsection (j)).

(e) The fund may be used for any of the following purposes:

(1) To purchase, lease, upgrade, maintain, or repair one (1) or more of the following:

(A) Computer hardware.

(B) Computer software.

(C) Wiring and computer networks.

(D) Communication access systems used to connect with computer networks or electronic gateways.

(2) To pay for the services of full-time or part-time computer maintenance employees.

(3) To conduct nonrecurring inservice technology training of school employees.

(4) To fund the payment of advances, together with interest on the advances, from the common school fund for educational technology programs under IC 21-1-5.

(5) To fund the acquisition of any equipment or services necessary:

(A) to implement the technology preparation curriculum under IC 20-10.1-5.6;

(B) to participate in a program to provide educational technologies, including computers, in the homes of students (commonly referred to as "the buddy system project") under IC 20-10.1-25, the 4R's technology program under IC 20-10.1-25, or any other program under the educational technology program described in IC 20-10.1-25; or

(C) to obtain any combination of equipment or services described in clauses (A) and (B).

(f) The fund may be used to purchase:

(1) building sites;

(2) buildings in need of renovation;

(3) building materials; and

(4) equipment;

for the use of vocational building trades classes to construct new buildings and to remodel existing buildings.

(g) The fund may be used for leasing or renting of existing real estate, excluding payments authorized under IC 21-5-11 and IC 21-5-12.

(h) The fund may be used to pay for services of the school corporation employees that are bricklayers, stone masons, cement masons, tile setters, glaziers, insulation workers, asbestos removers, painters, paperhangers, drywall applicators and tapers, plasterers, pipe fitters, roofers, structural and steel workers, metal building assemblers, heating and air conditioning installers, welders, carpenters, electricians, or plumbers, as these occupations are

defined in the United States Department of Labor, Employment and Training Administration, Dictionary of Occupational Titles, Fourth Edition, Revised 1991, if:

- (1) the employees perform construction of, renovation of, remodeling of, repair of, or maintenance on the facilities and equipment specified in subsections (b) and (c);
- (2) the school corporation's total annual salary and benefits paid by the school corporation to employees described in this subsection are at least six hundred thousand dollars (\$600,000); and
- (3) the payment of the employees described in this subsection is included as part of the proposed capital projects fund plan described in section 5(a) of this chapter.

However, the number of employees that are covered by this subsection is limited to the number of employee positions described in this subsection that existed on January 1, 1993. For purposes of this subsection, maintenance does not include janitorial or comparable routine services normally provided in the daily operation of the facilities or equipment.

(i) The fund may be used to pay for energy saving contracts entered into by a school corporation under IC 36-1-12.5.

(j) Money from the fund may be used to pay for the construction, repair, replacement, remodeling, or maintenance of a school sports facility. However, a school corporation's expenditures in a calendar year under this subsection may not exceed five percent (5%) of the property tax revenues levied for the fund in the calendar year.

(k) Money from the fund may be used to carry out a plan developed under IC 20-10.1-33.

(l) This subsection applies during the period beginning January 1, 2004, and ending December 31, 2005. Money from the fund may be used to pay for up to one hundred percent (100%) of the following costs of a school corporation:

- (1) Utility services.
- (2) Property or casualty insurance.
- (3) Both utility services and property or casualty insurance.

In the 2004 calendar year, a school corporation's expenditures under this subsection may not exceed one percent (1%) of the school corporation's 2003 calendar year distribution. In the 2005 calendar year, a school corporation's expenditures under this subsection may not exceed two percent (2%) of the school corporation's 2003 calendar year distribution.

(m) Notwithstanding subsection (l), a school corporation's expenditures under subsection (l) in the 2004 calendar year may exceed one percent (1%) of the school corporation's 2003 calendar year distribution if the school corporation's 2004 calendar year distribution is less than the school corporation's 2003 calendar year distribution. The amount by which a school corporation's expenditures under subsection (l) in the 2004 calendar year may exceed one percent (1%) of the school corporation's 2003 calendar year distribution is the least of the following:

(1) One percent (1%) of the school corporation's 2003 calendar year distribution.

(2) The greater of zero (0) or the difference between:

(A) the sum of:

(i) the school corporation's calendar year distribution;

(ii) the amount determined for the school corporation under subsection (1); plus

(iii) the amount determined for the school corporation under this subsection, if any;

for the immediately preceding calendar year; minus

(B) the school corporation's calendar year distribution for the calendar year.

(3) The difference between:

(A) one hundred percent (100%) of the school corporation's costs for utility services and property or casualty insurance; minus

(B) the amount determined for the school corporation under subsection (1) for the calendar year.

(n) Notwithstanding subsection (l), a school corporation's expenditures under subsection (l) in the 2005 calendar year may exceed two percent (2%) of the school corporation's 2003 calendar year distribution if the school corporation's 2005 calendar year distribution is less than the school corporation's 2003 calendar year distribution. The amount by which a school corporation's expenditures under subsection (l) in the 2005 calendar year may exceed two percent (2%) of the school corporation's 2003 calendar year distribution is the least of the following:

(1) Two percent (2%) of the school corporation's 2003 calendar year distribution.

(2) The greater of zero (0) or the difference between:

(A) the sum of:

(i) the school corporation's calendar year distribution;

(ii) the amount determined for the school corporation under subsection (1); plus

(iii) the amount determined for the school corporation under this subsection, if any;

for the immediately preceding calendar year; minus

(B) the school corporation's calendar year distribution for the calendar year.

(3) The difference between:

(A) one hundred percent (100%) of the school corporation's costs for utility services and property or casualty insurance; minus

(B) the amount determined for the school corporation under subsection (1) for the calendar year.

As added by P.L.85-1987, SEC.3. Amended by P.L.47-1989, SEC.5; P.L.277-1993(ss), SEC.117; P.L.112-1994, SEC.1; P.L.212-1995, SEC.1; P.L.25-1995, SEC.77; P.L.77-1999, SEC.8; P.L.240-1999, SEC.1; P.L.144-2002, SEC.2; P.L.224-2003, SEC.148; P.L.97-2004, SEC.79.

IC 21-2-15-5

Proposed plan and expenditures from fund; public hearing; resolution

Sec. 5. (a) This subsection does not apply to a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000), unless a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect. Before a governing body may collect property taxes for a capital projects fund in a particular year, the governing body must, after January 1 and not later than September 20 of the immediately preceding year, hold a public hearing on a proposed or amended plan and then pass a resolution to adopt the proposed or amended plan.

(b) This subsection applies only to a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000). This subsection does not apply to the school corporation if a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect. Before the governing body of the school corporation may collect property taxes for a capital projects fund in a particular year, the governing body must, after January 1 and on or before February 1 of the immediately preceding year, hold a public hearing on a proposed or amended plan and then pass a resolution to adopt the proposed or amended plan.

(c) The department of local government finance shall prescribe the format of the plan. A plan must apply to at least the three (3) years immediately following the year the plan is adopted. A plan must estimate for each year to which it applies the nature and amount of proposed expenditures from the capital projects fund. A plan must estimate:

- (1) the source of all revenue to be dedicated to the proposed expenditures in the upcoming calendar year; and
- (2) the amount of property taxes to be collected in that year and retained in the fund for expenditures proposed for a later year.

(d) If a hearing is scheduled under subsection (a) or (b), the governing body shall publish the proposed plan and a notice of the hearing in accordance with IC 5-3-1-2(b).

(e) Subject to any notice and hearing requirements, a school corporation may amend a plan adopted under this chapter to include expenditures under section 4(l), 4(m), or 4(n) of this chapter.

As added by P.L.85-1987, SEC.3. Amended by P.L.47-1989, SEC.6; P.L.50-1996, SEC.17; P.L.6-1997, SEC.191; P.L.6-1997, SEC.192; P.L.96-2000, SEC.7; P.L.178-2001, SEC.6; P.L.90-2002, SEC.442; P.L.177-2002, SEC.13; P.L.224-2003, SEC.149.

IC 21-2-15-6

Publication of notice of adoption of plan; objections

Sec. 6. (a) The governing body shall publish a notice of the adoption or amendment of a plan in accordance with IC 5-3-1-2(b). This publication must be made no later than twenty (20) days after

the county auditor posts and publishes the notice of the school corporation's tax rate for the ensuing calendar year.

(b) In the first year that a plan is proposed, ten (10) or more taxpayers who will be affected by the adopted plan may file a petition with the county auditor of a county in which the school corporation is located not later than ten (10) days after the publication, setting forth their objections to the proposed plan. After the first year a plan is proposed, ten (10) or more taxpayers who will be affected by the adopted plan may file a petition with the county auditor of a county in which the school corporation is located not later than ten (10) days after the publication, setting forth their objections to any item in the proposed plan or amendment to the plan that does not concern a construction project that had previously been included in an adopted capital project fund plan. The county auditor shall immediately certify the petition to the department of local government finance.

As added by P.L.85-1987, SEC.3. Amended by P.L.47-1989, SEC.7; P.L.25-1995, SEC.76; P.L.90-2002, SEC.443; P.L.224-2003, SEC.150.

IC 21-2-15-7

Hearing on petition; notice

Sec. 7. The department of local government finance shall, within a reasonable time, fix a date for a hearing on the petition, filed under section 6(b) of this chapter, which shall be held in a county in which the school corporation is located. The department of local government finance shall notify:

- (1) the governing body; and
- (2) the first ten (10) taxpayers whose names appear upon the petition;

at least five (5) days before the date fixed for the hearing.

As added by P.L.85-1987, SEC.3. Amended by P.L.90-2002, SEC.444.

IC 21-2-15-8

Department of local government finance action; appeal

Sec. 8. (a) After a hearing upon the petition under section 7 of this chapter, the department of local government finance shall certify its approval, disapproval, or modification of the plan to the governing body and the auditor of the county. The department of local government finance may seek the recommendation of the school property tax control board with respect to this determination.

(b) A governing body may petition for judicial review of the final determination of the department of local government finance under this subsection. The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (a).

As added by P.L.85-1987, SEC.3. Amended by P.L.90-2002, SEC.445; P.L.256-2003, SEC.36.

IC 21-2-15-9

Appropriations from fund; approval

Sec. 9. The department of local government finance may approve appropriations from the capital projects fund only if they conform to a plan that has been adopted in compliance with this chapter.

As added by P.L.85-1987, SEC.3. Amended by P.L.90-2002, SEC.446.

IC 21-2-15-10

Amendment of plan; emergency; public hearing; publication; approval

Sec. 10. (a) A governing body may amend a plan adopted under section 5 of this chapter to:

- (1) provide money for the purposes described in section 4 of this chapter; or
- (2) supplement money accumulated in the capital projects fund for those purposes.

(b) When an amendment to a plan is required by reason other than the occurrence of an emergency, the governing body must hold a public hearing on the proposed amendment. At this hearing, the governing body must declare the nature of and the need for the amendment and then pass a resolution to adopt the amendment to the plan. The plan, as proposed to be amended, must comply with the requirements for a plan under section 5(b) of this chapter, and the governing body must publish the proposed amendment to the plan and notice of the hearing in accordance with IC 5-3-1-2(b). This amendment to the plan is not subject to the deadline for adoption described in section 5(a) of this chapter. However, the amendment to the plan must be submitted to the department of local government finance for its consideration and is subject to approval, disapproval, or modification in accordance with the procedures for adopting a plan set forth in sections 6 through 8 of this chapter.

(c) When an emergency arises that results in costs that exceed the amount accumulated in the fund for the purposes described in section 4(b)(4) of this chapter, the governing body is not required to comply with subsection (b), but instead must immediately apply to the department of local government finance for a determination that an emergency exists. If the department of local government finance determines that an emergency exists, the governing body may adopt a resolution to amend the plan. The amendment is not subject to the deadline and the procedures for adoption described in section 5 of this chapter. However, the amendment is subject to modification by the department of local government finance.

(d) An amendment adopted under this section may require the payment of eligible costs from:

- (1) money accumulated in the capital projects fund for other purposes; or
- (2) money to be borrowed from other funds of the school corporation or from a financial institution. The amendment may also require an increase in the property tax rate for the capital

projects fund to restore money to the fund or to pay principal and interest on a loan. Any increase to the property tax rate for the capital projects fund is effective for property taxes first due and payable for the year next certified by the department of local government finance under IC 6-1.1-17-16. However, the property tax rate may not exceed the maximum rate established under section 11 of this chapter.

As added by P.L.85-1987, SEC.3. Amended by P.L.47-1989, SEC.8; P.L.277-1993(ss), SEC.118; P.L.90-2002, SEC.447.

IC 21-2-15-11

Funding capital projects; tax rate; computation

Sec. 11. (a) Except as provided in subsection (e), to provide for the capital projects fund, the governing body may, for each year in which a plan adopted under section 5 of this chapter is in effect, impose a property tax rate that does not exceed forty-one and sixty-seven hundredths cents (\$0.4167) on each one hundred dollars (\$100) of assessed valuation of the school corporation. This actual rate must be advertised in the same manner as other property tax rates.

(b) The maximum property tax rate levied by each school corporation must be adjusted each time a general reassessment of property takes effect. The adjusted property tax rate becomes the new maximum property tax rate for the levy for property taxes first due and payable in each year:

- (1) after the general reassessment for which the adjustment was made takes effect; and
- (2) before the next general reassessment takes effect.

(c) The new maximum rate under this section is the tax rate determined under STEP SEVEN of the following formula:

STEP ONE: Determine the maximum rate for the school corporation for the year preceding the year in which the general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value of the taxable property from the year preceding the year the general reassessment takes effect to the year that the general reassessment is effective.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.

(d) The department of local government finance shall compute the maximum rate allowed under subsection (c) and provide the rate to each school corporation.

(e) For a year in which a school corporation uses money from the school corporation's capital projects fund to pay for costs described in section 4(l) of this chapter, the school corporation may impose a property tax rate that exceeds the rate described in subsection (a). The amount by which the property tax rate may exceed the rate described in subsection (a) equals the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the sum of:

(A) the school corporation's expenditures under section 4(l) of this chapter for the calendar year; plus

(B) either:

(i) the school corporation's expenditures under section 4(m) of this chapter for the 2004 calendar year; or

(ii) the school corporation's expenditures under section 4(n) of this chapter for the 2005 calendar year.

STEP TWO: Determine the quotient of:

(A) the STEP ONE amount; divided by

(B) the school corporation's assessed valuation for the year.

STEP THREE: Determine the product of:

(A) the STEP TWO amount; multiplied by

(B) one hundred (100).

As added by P.L.85-1987, SEC.3. Amended by P.L.25-1995, SEC.78; P.L.6-1997, SEC.193; P.L.90-2002, SEC.448; P.L.178-2002, SEC.92; P.L.224-2003, SEC.151.

IC 21-2-15-12

Earned interest; disposition; transfer of funds

Sec. 12. (a) Interest on the capital projects fund, including the fund's pro rata share of interest earned on the investment of total money on deposit, shall be deposited in the fund. However, the governing body may adopt a resolution to transfer any interest earned on money on deposit in the capital projects fund to the school corporation's general fund.

(b) A school corporation may transfer money to or from the capital projects fund under IC 21-2-11-4(c).

As added by P.L.85-1987, SEC.3. Amended by P.L.240-1991(ss2), SEC.77; P.L.224-2003, SEC.152.

IC 21-2-15-13 Repealed

(Repealed by P.L.41-1993, SEC.53.)

IC 21-2-15-13.1

Transfer to general fund from capital projects fund

Sec. 13.1. (a) The governing body of a school corporation may adopt a resolution to transfer after June 30, 2002, and before January 1, 2003, money that is:

- (1) not greater than the remainder of the amount described in IC 21-3-1.7-8.2(b) STEP TWO (C) minus the amount transferred under IC 21-2-4-7(a) and IC 21-2-11.5-5(a); and
- (2) on deposit in the school corporation's capital projects fund; to the school corporation's general fund for use for any general fund purpose.

(b) The governing body of a school corporation may adopt a resolution to transfer after December 31, 2002, and before July 1, 2003, money that is:

- (1) not greater than the remainder of the amount described in IC 21-3-1.7-8.2(b) STEP TWO (D) minus the amount transferred under IC 21-2-4-7(b) and IC 21-2-11.5-5(b); and
- (2) on deposit in the school corporation's capital projects fund; to the school corporation's general fund for use for any general fund purpose.

(c) This section expires July 1, 2003.

As added by P.L.178-2002, SEC.93. Amended by P.L.224-2003, SEC.153.

IC 21-2-15-14

Rules

Sec. 14. The department of local government finance may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.85-1987, SEC.3. Amended by P.L.90-2002, SEC.449.